

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

2019 MAR 29 AM 10:35

CLERK
[Signature]

BY _____
DEPUTY CLERK

UNITED STATES OF AMERICA,

)

Plaintiff,

)

Case No. 2:19-cv-48

v.

)

\$15,000.00, MORE OR LESS, IN
UNITED STATES CURRENCY

)

Defendant in rem.

)

VERIFIED COMPLAINT FOR FORFEITURE IN REM

Plaintiff, the United States of America (the “United States”), by and through its attorney, Christina E. Nolan, United States Attorney for the District of Vermont, brings this complaint and alleges as follows in accordance with Rule G(2) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions:

NATURE OF THE ACTION

1. This is a civil action *in rem* to forfeit and condemn to the use and benefit of the United States all right, title and interest in the above-named defendant *in rem*, to wit, \$15,000.00, more or less, in United States currency (the “Defendant Currency”), which is forfeitable pursuant to: (a) 21 U.S.C. § 881(a)(6) because it constitutes moneys furnished or intended to be furnished by a person in exchange for a controlled substance in violation of the Controlled Substances Act, proceeds traceable to such an exchange, and/or moneys used or intended to be used to facilitate such an exchange; and (b) 18 U.S.C. § 981(a)(1)(C) because it constitutes proceeds derived from “specified unlawful activity” as defined in 18 U.S.C. §§ 1956(c)(7)(A) and 1961(1)(D), namely, the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance.

THE DEFENDANT IN REM

2. The Defendant Currency consists of a sum of United States currency totaling \$15,000.00, more or less, which members of the Drug Enforcement Administration (“DEA”) seized from Jerry Edward Romero, Jr., on September 14, 2018, following the execution of a search warrant at Romero’s residence located at 77 Bear Trap Road, Milton, Vermont. At the time of seizure, the Defendant Currency was located in a basement safe in Romero’s residence and consisted of 3 bundles of cash, each of which was comprised of \$5,000.00 in small bills, all of which was wrapped in a plastic bag.

3. Following the seizure, the DEA wired the Defendant Currency into the possession, custody, and control of the United States Marshals Service at Burlington, Vermont, within the District of Vermont, and the United States Marshals Service subsequently deposited the funds in a government account for safekeeping pending forfeiture.

JURISDICTION AND VENUE

4. The Court has subject-matter jurisdiction over this civil action *in rem* pursuant to 28 U.S.C. §§ 1345 and 1355(a) because this is a civil action commenced by the United States for the enforcement of a forfeiture incurred under an Act of Congress.

5. The Court has *in rem* jurisdiction over the Defendant Currency pursuant to 28 U.S.C. §§ 1355(b)(1)(B) and 1395(b) because the Defendant Currency was seized in this district. In accordance with Rule G(3)(b)(i) of the Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions, the United States requests that the Clerk of Court issue a warrant to arrest the Defendant Currency upon the filing of this complaint.

6. Venue is proper in this district pursuant to 28 U.S.C. §§ 1355(b)(1)(B) and 1395(b) because the Defendant Currency was seized in this district.

FACTUAL ALLEGATIONS

Discovery of the Defendant Currency and Evidence of Its Unlawful Nature

7. On September 6, 2018, a member of the Milton Police Department (“MPD”) obtained from the Vermont Superior Court a warrant authorizing law enforcement officers to search the residence of Jerry Romero and Kirk Little located at 77 Bear Trap Road, Milton, Vermont, for suspected heroin, crack cocaine, cocaine, currency, and other evidence of the unlawful drug activity.

8. On September 14, 2018, MPD and DEA agents executed the warrant at the residence of Romero and Little located at 77 Bear Trap Road, Milton, Vermont.

9. Upon entering the residence, MPD and DEA agents encountered Romero and two non-residents; Little was not present.

10. During a search of Romero’s person, DEA agents located \$910.00 in United States currency in his front left pants pocket.

11. During a search of Romero’s residence, DEA agents located, among other things, the following evidence of unlawful drug activity:

- a. a clear zip-lock bag containing 480 bags of suspected heroin packaged in 48 bundles and a second clear zip-lock bag containing approximately 61 grams of suspected crack cocaine, both of which were hidden underneath a trash bag inside of the bathroom trashcan;
- b. approximately 33.5 grams of an unknown white substance contained in a cigarette wrapper, a small zip-lock bag containing approximately 34.7 grams of an unknown white powdery substance, and a plastic bag containing approximately 36.4 grams of orange/clear strips, all of which was located on the top shelf of a bedside unit in Romero’s bedroom;
- c. \$2,995.00 in United States currency, all of which was located in a drawer unit located in Romero’s bedroom;

- d. a clear zip-lock bag containing 40 bags of suspected heroin packaged in 4 bundles, numerous syringes, and numerous empty wax bags, all of which was located inside of a dresser drawer in Little's bedroom;
- e. a clear zip-lock bag containing \$15,000.00 in United States currency split into 3 bundles, each of which was comprised of \$5,000 in small bills (the Defendant Currency), a Glock .38 caliber pistol, and numerous rounds of ammunition, all of which was located in the basement of the residence in a locked safe to which Romero had the combination;
- f. 10 suspected marijuana plants, which were being cultivated in pots in a space underneath the basement steps;
- g. a number of other suspected marijuana plants, which had been cut and hung to dry in the bay area of the garage; and
- h. miscellaneous other indicia of unlawful drug activity, including a notebook drug ledger and multiple cell phones.

12. Following the search, Romero was taken into custody and charged with knowingly possessing, with intent to distribute, heroin and 28 grams or more of cocaine base in violation of 21 U.S.C. §§ 841(a) and 841(b)(1)(B).

Administrative Forfeiture Proceedings

13. Based on the foregoing facts and other evidence of unlawful drug activity, the DEA seized the Defendant Currency, among other property, and commenced administrative proceedings to forfeit the same pursuant to 21 U.S.C. § 881.

14. The DEA published notice of the forfeiture proceedings on an official internet government forfeiture site (www.forfeiture.gov) for thirty consecutive days, from November 12, 2018 to and through December 11, 2018, in accordance with 28 C.F.R. § 8.9(a).

15. The DEA also provided personal written notice of the proceedings to all known interested parties in accordance with 18 U.S.C. § 983(a) and 28 C.F.R. § 8.9(b).

16. On November 26, 2018, the DEA received from Fred Combs an administrative claim in which Combs asserted an interest in the Defendant Currency.

17. To date, no other person has filed a claim with respect to the Defendant Currency and, pursuant to 18 U.S.C. § 983(a)(2), the time for filing such a claim has expired.

Miscellaneous Proceedings in the District Court

18. Based on its receipt of Mr. Combs' claim, the United States was required to file a complaint for forfeiture against the Defendant Currency, to obtain an indictment alleging that the Defendant Currency is subject to forfeiture, or to return the Defendant Currency, by February 24, 2019, absent an order of the Court extending such period. 18 U.S.C. § 983(a)(3)(A).

19. By application dated January 29, 2019, the United States sought an order, pursuant to 18 U.S.C. § 983(a)(3)(A), extending the time in which the United States may file a complaint for forfeiture against the Defendant Currency, or obtain an indictment alleging that the Defendant Currency is subject to forfeiture, for thirty-five (35) days, commensurate with the duration of the recent shutdown of the federal government. *See In Re: Non-Judicial Civil Forfeiture Proceedings*, No. 19-mc-00009-gwc, ECF Doc. Nos.1-2.

20. By Order, dated January 30, 2019, the Court granted the United States' application and extended by thirty-five (35) days the time in which the United States may file a complaint for forfeiture against the Defendant Currency or obtain an indictment alleging that the Defendant Currency is subject to forfeiture. *In Re: Non-Judicial Civil Forfeiture Proceedings*, No. 19-mc-00009-gwc, ECF Doc. No. 3.

**FIRST CLAIM FOR RELIEF
(Forfeiture Pursuant to 21 U.S.C. § 881(a)(6))**

21. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 20 above as if fully set forth herein.

22. Pursuant 21 U.S.C. § 881(a)(6), all moneys furnished or intended to be furnished by a person in exchange for a controlled substance in violation of the Controlled Substances Act, proceeds traceable to such an exchange, and/or moneys used or intended to be used to facilitate such an exchange, shall be subject to forfeiture to the United States and no property rights shall exist in such moneys or proceeds.

23. Heroin is a Schedule I controlled substance under the Controlled Substances Act and cocaine is a Schedule II controlled substance thereunder.

24. Pursuant to 18 U.S.C. § 984(a)(2), in any forfeiture action *in rem* in which the subject property is cash, any identical property found in the same place as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture, so long as the action to forfeit such identical property is commenced within one year from the date of the offense that is the basis for the forfeiture.

25. The Defendant Currency constitutes, in whole or in part, moneys furnished or intended to be furnished by a person in exchange for a controlled substance in violation of the Controlled Substances Act, proceeds traceable to such an exchange, and/or moneys used or intended to be used to facilitate such an exchange.

26. Accordingly, all right, title, and interest in the Defendant Currency is subject to forfeiture to the United States pursuant to 21 U.S.C. § 881(a)(6) and 18 U.S.C. § 984(a)(2).

**SECOND CLAIM FOR RELIEF
(Forfeiture Pursuant to 18 U.S.C. § 981(a)(1)(C))**

27. Plaintiff repeats and realleges each and every allegation contained in paragraphs 1 through 20 above as if fully set forth herein.

28. Pursuant to 18 U.S.C. § 981(a)(1)(C), any personal property that constitutes or is derived from proceeds traceable to any offense constituting “specified unlawful activity,” as that term is defined in 18 U.S.C. § 1956(c)(7), is subject to forfeiture to the United States.

29. Pursuant to 18 U.S.C. § 1956(c)(7)(A), the term “specified unlawful activity” includes any act or activity constituting an offense listed in 18 U.S.C. § 1961(1), except an act that is indictable under Subchapter II of Chapter 53 of Title 31 of the U.S. Code. This definition of “specified unlawful activity” includes the offenses listed in 18 U.S.C. § 1961(1)(D), including the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance.

30. Heroin is a Schedule I controlled substance under the Controlled Substances Act and cocaine is a Schedule II controlled substance thereunder.

31. Pursuant to 18 U.S.C. § 984(a)(2), in any forfeiture action *in rem* in which the subject property is cash, any identical property found in the same place as the property involved in the offense that is the basis for the forfeiture shall be subject to forfeiture, so long as the action to forfeit such identical property is commenced within one year from the date of the offense that is the basis for the forfeiture.

32. The Defendant Currency constitutes or is derived from, in whole or in part, proceeds traceable to an offense constituting “specified unlawful activity,” as defined in 18 U.S.C. §§ 1956(c)(7)(A) and 1961(1)(D), namely, the felonious manufacture, importation, receiving, concealment, buying, selling, or otherwise dealing in a controlled substance.

33. Accordingly, all right, title, and interest in the Defendant Currency is subject to forfeiture to the United States pursuant to 18 U.S.C. §§ 981(a)(1)(C), 984(a), 1956(c)(7), and 1961(1)(D).

RELIEF REQUESTED

WHEREFORE, the United States respectfully requests that all right, title, and interest in the Defendant Currency be forfeited and condemned to the use and benefit of the United States, that the United States be awarded its costs and disbursements in this action, and that the United States be granted such other and further relief as the Court deems just and proper.

Dated at Burlington, in the District of Vermont, this 29th day of March, 2019.

Respectfully submitted,

CHRISTINA E. NOLAN
United States Attorney

By: 
BENJAMIN WEATHERS-LOWIN
Assistant United States Attorney
United States Attorney's Office
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Burlington, VT 05402-0570
(802) 951-6725
Ben.Weathers-Lowin@usdoj.gov

Attorney for the United States

VERIFICATION

I, Adam Chetwynd, a Special Agent with the Drug Enforcement Administration, hereby verify under penalty of perjury that I have read the foregoing complaint and that the contents thereof are true and correct to the best of my knowledge, information, and belief.

Dated at Burlington, in the District of Vermont, this 29th day of March, 2019.



ADAM CHETWYND
Special Agent, DEA

J.R-CV-16-WKS

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

United States of America

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)**DEFENDANTS**

\$15,000.00, more or less, in United States currency

RECEIVED

MAR 29 2019

U.S. DISTRICT COURT

BURLINGTON, VT

Attorneys (If Known)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Benjamin Weathers-Lowin, Assistant U.S. Attorney
11 Elmwood Ave., 3rd Floor, Burlington, VT 05401**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- | | |
|---|---|
| <input checked="" type="checkbox"/> 1 U.S. Government Plaintiff | <input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State	PTF	DEF	Citizen of Another State	PTF	DEF
	<input type="checkbox"/> 1	<input type="checkbox"/> 1		<input type="checkbox"/> 4	<input type="checkbox"/> 4
Incorporated or Principal Place of Business In This State			Incorporated and Principal Place of Business In Another State		

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/ Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/ Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	Habeas Corpus: <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition				

V. ORIGIN

(Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
|---|---|--|---|--|---|--|

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
21 U.S.C. § 881(a)(6); 18 U.S.C. § 981(a)(1)(C)**VI. CAUSE OF ACTION**Brief description of cause:
Forfeiture of in rem defendant as money derived from, or involved in, illegal drug-related activities**VII. REQUESTED IN COMPLAINT:** CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23DEMAND \$
(Forfeiture)CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE Hon. Geoffrey Crawford

DOCKET NUMBER 5:19-mc-00009-gwc

DATE

SIGNATURE OF ATTORNEY OF RECORD

03/29/2019

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____